

**LEGISLATIVE SERVICES AGENCY
OFFICE OF FISCAL AND MANAGEMENT ANALYSIS**

200 W. Washington, Suite 301
Indianapolis, IN 46204
(317) 233-0696
<http://www.in.gov/legislative>

FISCAL IMPACT STATEMENT

LS 6696

BILL NUMBER: SB 246

NOTE PREPARED: Feb 20, 2007

BILL AMENDED: Feb 19, 2007

SUBJECT: Oversight of Public Money.

FIRST AUTHOR: Sen. Mrvan

FIRST SPONSOR:

BILL STATUS: 2nd Reading - 1st House

FUNDS AFFECTED: X GENERAL
X DEDICATED
FEDERAL

IMPACT: State & Local

Summary of Legislation: (Amended) *Gaming Commission Jurisdiction:* This bill provides that the Gaming Commission has continuous jurisdiction over riverboat economic development agreements and incentive payments, regardless of the date of the development agreement. The bill establishes reporting requirements for the recipients of incentive payments under the agreements.

Municipal Benefit Entities: The bill provides that:

- (1) a contributing municipality shall after June 30, 2007, contractually require, as a condition of providing public money to a municipal benefit entity that is not required to be audited annually by the state board of accounts, that the municipal benefit entity must be audited by an independent accounting firm acceptable to the contributing municipality;
- (2) a municipal benefit entity must provide the results of an independent audit to the contributing municipality and, in the case of a municipal benefit entity that receives money under a gaming development agreement, to the Indiana gaming commission;
- (3) a municipal benefit entity shall pay the costs of an independent audit; and
- (4) the providing of an independent audit by a municipal benefit entity does not result in the municipal benefit entity being considered a public agency for purposes of the open door law or the public records law.

This bill also provides that a contributing municipality shall after June 30, 2007, contractually require, as a

condition of providing public money to a municipal benefit entity, that the members of the governing body or chief executive officer of the municipal benefit entity shall annually file a verified written certification with each contributing municipality stating that a written statement of accounts has been prepared.

The bill requires the fiscal body of a contributing municipality to review the amount of public money attributable to:

- (1) the municipality;
- (2) an agreement entered into by the municipality; or
- (3) an enterprise zone business;

that is used as compensation to or reimbursement of expenditures of a member of the governing body or chief executive officer of a municipal benefit entity.

State Board of Accounts Audit Schedule: The bill also provides that examinations of public entities by the State Board of Accounts shall be conducted on a schedule determined by the Board, except as specifically required by state law. (Current law requires certain entities to be examined on an annual basis and other entities to be examined on a biennial basis.) This bill also specifies that examinations of certain entities must be conducted at least biennially.

Effective Date: July 1, 2007.

Explanation of State Expenditures: *Gaming Commission Jurisdiction: Summary:* The bill will result in additional administrative responsibilities for the Indiana Gaming Commission (IGC). The fiscal impact that might arise from these new responsibilities is indeterminable. However, any additional expenses would be paid from Riverboat Wagering Tax revenue annually appropriated to IGC for administrative purposes. (Note: Current statute provides that sufficient funds are annually appropriated to the IGC from Riverboat Wagering Tax revenue deposited in the State Gaming Fund to administer the riverboat gambling laws.) In FY 2006, this distribution totaled about \$2.4 M.

IGC Oversight of Development Agreements: The bill specifies that the IGC has continuous jurisdiction over "development agreements" between persons or local units and riverboat casino owners or the operating agent of the French Lick casino. It also authorizes the IGC to verify and ensure that development agreements, incentive payments, and disbursements of incentive payment money received by persons or local units comport with the purposes of the riverboat gambling laws and don't adversely affect the integrity of the riverboat gambling industry in Indiana. A "development agreement" is defined as an agreement between a riverboat casino owner or the operating agent of the French Lick casino and a person or local unit that specifies the owner's or operating agent's financial commitments to support economic development in a local unit or a geographic region. The bill defines an "incentive payment" as any payment that a riverboat casino owner or the operating agent of the French Lick casino must make under a development agreement.

Annual Incentive Payment Reports: The bill requires recipients of riverboat incentive payments to annually report to the IGC an accounting of: (1) the incentive payment received by the recipient; and (2) any disbursements of incentive payment money received by the recipient. The bill also requires incentive payment recipients to furnish sufficient documentation to prove the validity of an incentive payment transaction to the IGC if the IGC requests this information. The bill requires that the report include the legal name of the incentive payment recipient and the date, amount, and purpose of each disbursement of incentive payment money.

The bill also requires that these reports must be made available electronically through the computer gateway administered by the state Office of Technology.

Background: Under current statute, riverboat casino owners and the operating agent of the French Lick casino must report annually to the IGC the total dollar amounts and recipients of incentive payments made during the year, and report any other items related to the incentive payments that the IGC may require.

Municipal Benefit Entities: This bill defines a "municipal benefit entity" (MBE) as any:

- (1) local economic development organization;
- (2) nonprofit charitable trust or nonprofit corporation that:
 - (A) gives grants to unrelated organizations, institutions, or individuals for scientific, educational, cultural, or other government and municipal purposes; and
 - (B) is maintained in whole or in part by public money or at the public expense; or
- (3) instrumentality of a municipality.

As used in this bill, public money means:

- (1) any appropriations of the state or a municipality;
- (2) any public funds;
- (3) taxes or other sources of public expense;
- (4) anything of any value that is from any of the following sources and would not otherwise qualify as public money:
 - (A) any interest in a grant, gift, donation, endowment, bequest, or trust that is transferred by a municipality;
 - (B) any agreement to share tax revenue received by a county or city under a riverboat gambling provision in IC 4-33-12-6 or IC 4-33-13;
 - (C) any agreement with a municipality to share or designate the recipient of any payment from a licensed owner, operating agent, or shareholder of a riverboat.
 - (D) any other funds not generated from tax;
 - (E) any assistance or fees described in IC 5-28-15-5 (enterprise zones).

The definition of MBE excludes a public foundation for a nonpublic school (IC 20-18-2-12), state educational institution (IC 20-12-0.5-1), or private institution of higher education (IC20-12-63-3).

The bill provides that an MBE must hire an independent accounting firm to audit the use of public money, and must provide the results of the audit to the Indiana Gaming Commission.

The bill also provides that an MBE must file a verified written certification with each municipality that has contributed public money. The certification must be signed, under penalty of perjury, by the members of the governing body and the chief executive officer of the MBE.

The verified written certification must contain certain items as listed in the bill, all of which relate to the MBE's use of public monies. The certification must also be available for inspection to any member of the public upon request.

The bill also provides that all compensation and reimbursement paid from public money to the members of the MBE's governing board or the MBE's CEO must be reasonable in relation to the duties performed and expenses incurred. The fiscal body of a contributing municipality may limit the amount of compensation and

reimbursement which can be paid from public money to the board or CEO of the MBE.

(Revised) *State Board of Accounts Audit Schedule*: The bill also provides that examinations of public entities by the State Board of Accounts (SBA) shall be conducted on a schedule determined by the SBA, except as specifically required by state law. (Current law requires certain entities to be examined on an annual basis and other entities to be examined on a biennial basis.) This provision could result in a cost savings for the SBA, but the impact will ultimately be determined by the administrative actions of the SBA in conducting audits more or less frequently than is required under current law. This bill also specifies that examinations of certain entities must be conducted at least biennially. Those entities include schools that require a federal audit; towns with a population of less than 5,000 that require a federal audit; all other entities that require a federal audit and are not audited annually on the schedule determined by the SBA.

Explanation of State Revenues:

Explanation of Local Expenditures: The new reporting requirements under the bill likely will have a minimal administrative impact on local units receiving incentive payments.

Explanation of Local Revenues:

State Agencies Affected: Indiana Gaming Commission; State Board of Accounts.

Local Agencies Affected: All municipalities; Local units receiving riverboat incentive payments.

Information Sources:

Fiscal Analyst: Adam Brown, 317-232-9854; Jim Landers, 317-232-9869.